IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 16332 of 2007(T)

CMA.69/2006 of DISTRICT COURT, THODUPUZHA
OS.18/2006 of MUNI-MAGI.COURT,THODUPUZHA

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PETITIONER:

DR. P.R.ANILKUMAR, S/O.RAGHAVAN,
ERATTU VEEDU, MUTTOM KARA, MUTTOM VILLAGE,
THODUPUZHA TALUK.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.R.V.SATHYAPRIYAN NAIR

RESPONDENTS:

DR. GEORGE JOSEPH, S/O. VARKEY,
MAMBRA VEEDU, MUTTOM KARA, MUTTOM VILLAGE,
THODUPUZHA TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No.16332 OF 2007 T

Dated this the 30th May, 2007.

JUDGMENT

This writ petition is challenged to quash the order passed in C.M.A.69/06 by the District Judge, Thodupuzha. The brief facts are that the plaintiff herein purchased a hospital run by the defendant in the case viz., Karuna Hospital for a consideration of Rs.2,25,000/- with the good will. Subsequently the defendant within an area of 200 mtrs. started another hospital and it is contended by the plaintiff that it is affecting him and the good will takes in the understanding that the defendant would not start a hospital anywhere near the Karuna Hospital. The injunction applications had come up twice before the different courts and ultimately the learned District Judge had disposed of the matter with a direction to try the suit untrammelled by the observations made in the order. The learned District Judge also found that much materials are necessary for a proper adjudication of the case and the trial court has to bestow its attention and permit parties to adduce necessary evidence for the decision of the case. I feel that the approach done by the learned District Judge is in order and therefore, the order under challenge does not call for any interference. At the same time, the matter requires

immediate attention by the court below. Though it is a suit of the year 2006, the question involved is for the existence and running of an hospital, it is just and equitable to direct the trial court to dispose of the case within a frame work of three months from today by allowing the parties to adduce evidence. It is made very clear that the trial court shall not be guided by any observations or statements made in any of the judgments by which the injunction had been refused. Writ petition is disposed of accordingly.

The Registry is directed to send a copy of this judgment to the trial court immediately for necessary compliance.

M.N.KRISHNAN
Judge

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